REMARKS

Favorable reconsideration of the above-identified application is requested in view of the following remarks.

Claims 1-40 are pending, with Claims 1, 14, 24 and 27 being independent. The Examiner is thanked for indicating that Claims 7, 8, 20, 21, 33 and 34 contain allowable subject matter.

Claims 1-3, 9, 11-14-16, 22-29 and 35 are rejected under 35 U.S.C. § 102(e) as being anticipated by *Bates*. Claims 4, 6, 10, 17, 19, 30, 32 and 36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bates* in view of *Honda* (Translation of Japanese Patent No. 09-025285A), hereinafter *Honda*. Claims 5, 18 and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bates* in view of *Honda* and further in view of *Fujimoto et al.* (U.S. Patent No. 5,930,385), hereinafter *Fujimoto*. Claims 12 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bates* in view of *Adegeest* (U.S. Patent No. 5,872,572), hereinafter *Adegeest*.

Independent Claim 1 now recites, in combination with other claimed features, means for grouping all the colors in the first image data into groups of approximately equal colors and comparing each of the first image data groups of colors to all the colors of the second image data and for specifying a uniform adjusting color, that makes the first image data recognizable against all colors of the second image data that serve as the first image data's background.

Applicant has previously argued that *Bates* does not disclose that colors of the foreground, *i.e.*, the first image data, are grouped into groups of approximately equal colors and each of the groups of colors is compared to all the background

colors, *i.e.*, second image data, as recited in present Claim 1. Such arguments were previously filed and are incorporated herein by reference. To further support such arguments, a Declaration Under 37 C.F.R. 1.132 is submitted herewith.

The declarant states that in *Bates*, the term "text object" is defined so that this term encompasses any text, including foreign language text, which can be colored, such as hypertext links, bold text, blinking text, italicized test, etc. See column 6, lines 62 through 65. "Text object" is also meant to encompass groups of text. See column 6, line 62 through column 7, line 2.

In referring to Fig. 2, *Bates* explains that within the centered text object 245 on a table background 240 are two text objects, a hyperlink 250 and an italicized portion 241. It is also explained that the hyperlink 250 and the italicized portion 241, which constitute part of the centered text object 245, are preferably treated as separate objects so that they can each be assigned a color. See column 7, lines 10 through 16.

Bates refers to the method 300 of Fig. 3, in which a color combination of each background object and each foreground object is examined to determine if such color combination is problematic or not. In step 311, where a foreground object is selected, the text object 245 mentioned above is again referred to as an example. See column 12, lines 30 through 45. Although the hyper text object 250 and the italicized text object 241 are explained to be within the centered text object 245, as mentioned above, and have different colors from that of the centered text object 245, as explained in column 12, line 33, the color of the text object 245 is determined to be black. See column 12, lines 43 through 45. Thus, the centered text object 245 is determined to have only a single color.

Accordingly, at least for the purposes of the text object's color determination, *Bates* treats the part of text object 245 that is colored black as a single object that is separate from the different colored hypertext object 250 and the different colored italicized text object 241. And, at least for the purpose of the text object's color determination, the whole of the centered text object 245, which includes the hypertext object 250 and the italicized text object 241, is not treated as a single object when the objects 245, 250, and 241 have different colors. Thus, none of the single text objects chosen in the step 311 can have multiple colors. They are all single colors.

The single text object chosen in step 311 as a foreground object is subject to the step 320, which is explained in detail referring to the method 500 of Fig. 5. Because each text object chosen in step 331 of Fig. 3 has a single color, as mentioned above, the method 500 of Fig. 5 will be performed to trace steps 510, 530 and 520 for each chosen text object. Steps 540 through 590 of Fig. 5 will not be performed for any foreground to the extent that such foreground is text object, according to the disclosure of *Bates*.

Accordingly, it should now be clear that none of the single text objects chosen in Step 311 of *Bates* has multiple colors. As a result, when the sequence 500 (Fig. 5) is selected to determine the color of the text object, the answer to decision box 530 must be "no", and the steps 540 through 590 are avoided. Thus, *Bates* does not teach or suggest the combination of claim 1 that includes, among other elements, "means for grouping all the colors in the first image data into groups of approximately equal colors and comparing each of the first image data groups of colors to all the colors of the second image data and for specifying a uniform adjusting color, that

makes the first image data recognizable against all colors of the second image data that serve as the first image data's background." Since steps 540 through 590 are avoided, *Bates* does not teach or suggest grouping of the colors of the first image.

To further define the protection to which the Applicant is entitled, new dependent claims have been added which recite that all the colors in the first image data are grouped into groups of approximately equal colors and are *individually* compared *to a value representing a combination* of all the colors of the second image data and for specifying a uniform adjusting color. In contrast, in *Bates*, the foreground color is compared individually to each background color to determine if there is a "bad" color combination. Such a comparison takes time and requires a significant database of color combinations. In the new dependent claims, the foreground colors are compared to a value representing a combination of all the colors of the second image data. Such a comparison is faster and easier than the *Bates* system. Accordingly, it should be clear that the new dependent claims operate in a significantly different manner than *Bates*.

With regard to certain claims, such as claim 4, the Examiner has proposed combining *Bates* with *Honda*. However, applicant submits that such a combination is improper. Specifically, if the averaging system used by *Honda* was incorporated into *Bates*, the resulting average color may not resemble any of the actual background colors. As a result, the reference to the tables of bad color combinations would be compromised. In other words, certain bad color combinations would go undetected, while proper color combinations may be inadvertently flagged as "bad". Accordingly, the averaging system of *Honda* cannot be used in combination with the *Bates* system.

Therefore, in view of the amendments to the independent claims, Applicant submits that the claims of the present application are now patentable over the applied prior art.

The dependent claims are rejected either over *Bates*, or over *Bates* in view of various secondary references. None of the rejections of the dependent claims remedy the deficiencies of the rejections of the independent claims, and the dependent claims should be allowable at least by virtue of their dependence from allowable independent claims.

For the reasons stated above, it is requested that all the rejections be withdrawn and that this application be allowed in a timely manner.

Should any questions arise in connection with this application, or should the Examiner feel that a teleconference would be helpful in resolving any remaining issues pertaining to this application, the undersigned requests that he be contacted at the number indicated below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: _October 29, 2007_   By: _____

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